

**Amendments to the Drawings:**

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the reference signs 19 and 21 mentioned in the detailed description (page 9, line 15), and element number 5 in Figure 1A was not mentioned in the description.

The attached sheet includes changes to Fig. 1A in compliance with 37 CFR 1.121(d). This attached sheet replaces the original sheet having Figs. 1A, 1B, 1C, and 1D.

In Figure 1A, previously omitted elements 19 and 21 have been added. Element number 5 has been removed from Figure 1A. No other amendments have been made to Figs. 1A, 1B, 1C, or 1D. Applicant respectfully submits no new matter has been added in the amendment of Figs. 1A.

Applicant respectfully request consideration and acceptance of the amendments to Fig. 1A.

### REMARKS/ARGUMENTS

Applicant has considered the Office Action mailed on October 17, 2006, and the references cited therewith.

Claims 1, 4-9, 13, 15-16, and 23 were amended and claims 10-11 and 20-21 were cancelled. Claims 1-9, 12-19, and 22-24 are pending in this application.

Applicant respectfully submits that no new matter was added in the amendments to claims 1, 4-9, 13, 15-16, and 23, and that support for the amendments can be found in the original specification. For example, support for the amendments to claims can be found, but not limited to, page 4, line 2; page 7, line 18 through page 10, line 2.

#### *§ 112 Rejection of the Claims*

Claims 5, 6, and 16 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 5, 6, and 16 recite the limitation “the opening,” for which there was insufficient antecedent basis. Applicant has amended claims 5, 6, and 16 to more clearly recite the claimed subject matter.

Applicant respectfully requests reconsideration and allowance of the pending claims.

#### *§ 102 Rejection of the Claims*

Claims 1-8, and 13-18 were rejected under 35 USC §102(b) as being anticipated by Melzer, et al. (U.S. Patent No. 6,280,385).

Applicant has amended independent claims 1 and 13 to more clearly recite the claimed subject matter. Insofar as the rejection applies to amended independent claims 1 and 13, Applicant respectfully traverses the rejections as follows.

Applicant respectfully submits that Melzer does not teach each element of independent claims 1 and 13. For example, Melzer does not teach, besides other things, a stent that includes a radio frequency marker that defines a perimeter of a

cell of a generally tubular structure, as recited in claim 1. Nor does Melzer teach, besides other things, a medical device for use in a body cavity that includes a radio frequency marker that delineates a circumference of a cell of a structure to emit sufficient RF energy under MRI visualization, as recited in claim 13.

In contrast, Melzer provides a “stent 1” provided with an “inductor defined by the skeleton 2 and a capacitor 3” (col. 7, lines 38-40). Melzer indicates that “[p]rovision is made that the individual components of the skeleton 2 are insulated relative to each other as shown in FIG. 3” (col. 7, lines 42-44). Melzer then indicates that “[a]ccording to FIG. 3 . . . [t]he stent 1 consists of a two layered material that forms a honey-comb structure 101 . . . [where] [t]he conductive layer of the honey-comb structure is interrupted along the lines 9” by cutting the conductive layer at the “locations 91” on the stent (col. 9, lines 41-54). This defines a “current path” indicated by “arrows 11” in figure 3 that provide for a “coil arrangement 2” to create the inductance of “stent 1” (col. 9, lines 55-58). Melzer, however, does not teach that radio frequency markers define a perimeter or delineate a circumference of an individual cell of the structure, as provided in independent claims 1 and 13.

As such, each and every element of independent claims 1 and 13 is not taught in Melzer.

Reconsideration and withdrawal of the § 102 rejection for the above independent claims 1 and 13, as well as those claims which depend therefrom, are respectfully requested.

§103 Rejection of the Claims

Claims 9, 19, and 23

Claims 9, 19, and 23 were rejected under 35 USC § 103(a) as being unpatentable over Melzer, et al. (U.S. Patent No. 6,280,385). Applicant respectfully addresses the rejections as follows.

As discussed above for independent claims 1 and 13, Melzer does not teach or suggest, besides other things, a stent that includes a radio frequency marker that

defines a perimeter of a cell of a generally tubular structure, as recited in claim 1. Nor does Melzer teach or suggest, besides other things, a medical device for use in a body cavity that includes a radio frequency marker that delineates a circumference of a cell of a structure to emit sufficient RF energy under MRI visualization, as recited in claim 13. As such, each and every element of independent claims 1 and 13 is not taught or suggested in Melzer. As claims 9 and 19 are dependent claims of independent claims 1 and 13, respectively, the § 103 rejection of claims 9 and 19 should be withdrawn.

Applicant has amended independent claim 23 to more clearly recite the claim subject matter. Claim 23 recites, besides other things, a method of implanting a medical device that includes inserting the medical device having a generally tubular structure formed of material substantially invisible under magnetic resonance imaging (MRI) visualization, where the generally tubular structure includes a cell with a radio frequency (RF) marker that defines a perimeter of the cell, into a body cavity. As discussed above for independent claim 1, Melzer does not teach or suggest such a medical device.

Nor does Melzer teach or suggest visually detecting changes in atomic spins due to radio frequency (RF) energy emitted, under influence of the magnetic field, by a RF marker on the medical device while the generally tubular structure apart from the cell with the RF marker remains substantially invisible under MRI visualization, as recited in claim 23. In contrast, Melzer attempts to visualize the entire “stent 1.”

As such, each and every element of independent claim 23 is not taught or suggested in Melzer.

Reconsideration and withdrawal of the § 103 rejection for claims 9, 19, and 23 are respectfully requested.

Claims 10-12, 20-22, and 24

Claims 10-12, 20-22, and 24 were rejected under 35 USC § 103(a) as being unpatentable over Melzer, et al. (U.S. Patent No. 6,280,385) in view of Jackson, et

al. (U.S. Publ. No. 2003/0004563). Applicant respectfully addresses the rejections as follows.

As discussed above for independent claims 1, 13 and 23, Melzer does not teach or suggest all the elements recited in the identified independent claims. For example, Melzer does not teach or suggest a stent that includes a radio frequency marker that defines a perimeter of a cell of a generally tubular structure, as recited in claim 1. Nor does Melzer teach or suggest, besides other things, a medical device for use in a body cavity that includes a radio frequency marker that delineates a circumference of a cell of a structure to emit sufficient RF energy under MRI visualization, as recited in claim 13.

Melzer also does not teach a method of implanting a medical device that includes inserting the medical device having a generally tubular structure formed of material substantially invisible under magnetic resonance imaging (MRI) visualization, where the generally tubular structure includes a cell with a radio frequency (RF) marker that defines a perimeter of the cell, into a body cavity. Nor does Melzer teach or suggest visually detecting changes in atomic spins due to radio frequency (RF) energy emitted, under influence of the magnetic field, by a RF marker on the medical device while the generally tubular structure apart from the cell with the RF marker remains substantially invisible under MRI visualization, as recited in claim 23. As such, each and every element of independent claims 1, 13, and 23 is not taught or suggested in Melzer.

Jackson was cited to illustrate connectors for a tubular structure. Jackson, however, does not cure the above identified deficiencies of Melzer. As such, each and every element of independent claims 1, 13 and 23 is not taught or suggested in Melzer and Jackson, either independently or in combination. As claims 10-12, 20-22, and 24 are dependent claims of independent claims 1, 13, and 23, the § 103 rejection should be withdrawn.

Reconsideration and withdrawal of the § 103 rejection for claims 10-12, 20-22, and 24 are respectfully requested.

### CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 236-0122 to facilitate prosecution of this matter.

**CERTIFICATE UNDER 37 CFR §1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS AMENDMENT Commissioner of Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on this 16<sup>th</sup> day of January, 2007.

Name

Signature

Respectfully Submitted,  
Brian J. Brown, et al.

By their Representatives,  
BROOKS & CAMERON, PLLC  
1221 Nicollet Avenue, Suite 500  
Minneapolis, MN 55403

By:

Joseph C. Huebsch  
Reg. No. 42,673

Date: